

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

CATHERINE ARANDA, ARACELI REYES
OLIVIA REYES AND MARK REYES
Plaintiffs,

vs.

HARVEY TRUCKING SERVICES, INC.
AND BRANDON LEUMEUAL BURNS
Defendants.

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CIVIL ACTION NO. 5:21-cv-00372

JURY TRIAL REQUESTED

DEFENDANT HARVEY TRUCKING SERVICES, INC.'S NOTICE OF REMOVAL

Pursuant to 28 U.S.C § 1332(a), 1441, and 1446, Defendant HARVEY TRUCKING SERVICES, INC., hereby gives notice of the removal of this cause of action to the United States District Court for the Western District of Texas, San Antonio Division. Defendant HARVEY TRUCKING SERVICES, INC. states, as grounds for removal, the following:

PROCEDURAL STATUS OF THE CASE

1. Plaintiffs, CATHERINE ARANDA, ARACELI REYES and MARK REYES filed this action in the 285th Judicial District Court of Bexar County, Texas on March 3, 2021. It carries the case style of Cause No. 2021CI03904; *Catherine Aranda, Araceli Reyes, Olivia Reyes and Mark Reyes v Harvey Trucking Service, Inc., and Brandon Leumeual Burns*; In the 285th Judicial District Court of Bexar County, Texas.

2. The Judicial District Clerk of Bexar County, Texas issued its citation to Harvey Trucking Services, Inc. on or about March 5, 2021.¹

¹ See Ex. D (Harvey Trucking Services, Inc. was served via email on March 13, 2021).

3. Harvey Trucking Services, Inc. is filing this Notice of Removal within 30 days of receipt of Plaintiff's Original Petition, and prior to filing an Original Answer.

4. All pleadings, process, orders, and other filings in the state court action accompany this notice. *See* 28 U.S.C. § 1446(a).

5. This Notice of Removal is being filed in the record office of the Clerk of the United States District Court for the Western District of Texas, San Antonio Division.

6. Defendant will promptly file a copy of this Notice of Removal with the Bexar County District Clerk.

BACKGROUND

7. This case arises out of a motor vehicle accident that occurred in San Antonio, Bexar County, Texas on December 12, 2019. The people allegedly involved in the collision were: Plaintiff/Driver Catherine Aranda aka Catherine Reyes with occupants Araceli Reyes, Olivia Reyes and Mark Reyes and Defendant Driver, Brandon Leumeual Burns. Plaintiffs claim they suffered personal injuries as a result of the alleged negligence of Defendant, Brandon Leumeual Burns.

8. Plaintiffs, Catherine Aranda aka Catherine Reyes and Mark Reyes are husband and wife and, upon information and belief, are both residents of Jerome County, Idaho.

9. Araceli Reyes is an individual who currently resides in Snohomish County, Washington.

10. Olivia Reyes is an individual who currently resides in Jerome County, Idaho.

11. Defendant Harvey Trucking Services, Inc. is a corporation authorized to do business in Texas with its principal place of business located in the State of Indiana.²

² *See* Ex. F (Registration in Indiana); *See also* Ex. G (Harvey Trucking Services Inc.'s 2020 Annual Report in Indiana).

12. Defendant Brandon Leumeual Burns, upon information and belief, resides in Oklahoma and is a citizen of the State of Oklahoma.

BASIS FOR ORIGINAL FEDERAL COURT JURISDICTION

13. Plaintiffs Catherine Aranda aka Catherine Reyes, Araceli Reyes, Olivia Reyes and Mark Reyes demand judgment in an amount over \$1,000,000³ and the Plaintiffs and Defendants in this matter are all citizens of different States. The United States District Court therefore has original jurisdiction of this matter according to 28 U.S.C § 1332(a).

PROPRIETY OF REMOVAL

14. This Notice of Removal is timely because it is filed within thirty (30) days of Defendant Harvey Trucking Services, Inc.'s receipt of the Plaintiff's Original Petition, in accordance with 28 U.S.C § 1446(b).

15. On information and belief, no other defendant has been served with citation so consent to removal is unnecessary. 28 U.S.C. § 1446(b)(2)(A).

16. This court has original jurisdiction of this matter under 28 U.S.C § 1332(a).

17. Except as otherwise expressly provided by an Act of Congress, any civil action brought in a state court of which the district courts of the United States have original jurisdiction may be removed to the district court of the United States for the district and division embracing the venue where the state court action was pending. *See* 28 U.S.C § 1446(a). The state court action that is the subject of this notice of removal is pending in Bexar County, Texas, which is found in the Western District of Texas, San Antonio Division. Therefore, venue of this removed action is proper in this Court and Division.

³ See Ex. C (Plaintiff's Original Petition).

18. Removal is not barred by 28 U.S.C. § 1445. Defendant Brandon Leumeual Burns is not a citizen or resident of the State of Texas, so removal is not prohibited by 28 U.S.C. § 1441(b). Defendant Harvey Trucking Services, Inc., is a corporation organized in Indiana and with its principal place of business located in the State of Indiana.

19. Pursuant to 28 U.S.C § 1446(a) and Rule 81 of the Federal Rules of Civil Procedure, Defendant Harvey Trucking Services, Inc. has attached hereto:

- (1) A list of all parties in the case, their party type, and the current status of the removed case;
- (2) A civil cover sheet and certified copy of the state court docket sheet; a copy of all pleadings that assert causes of action; all answers to such pleadings and a copy of all process and orders served upon the party removing the case to this court (if any);
- (3) A complete list of attorneys involved in the action being removed, including each attorney's bar number, address, telephone number, and part or parties represented by him or her;
- (4) A record of which parties have requested trial by jury; and
- (5) The name and address of the Court from which the case is being removed.

REQUEST FOR HEARING AND JURISDICTIONAL DISCOVERY

20. If Plaintiffs Catherine Aranda aka Catherine Reyes, Araceli Reyes, Olivia Reyes and Mark Reyes contest this removal, Defendant requests:

- a. A hearing regarding this Court's jurisdiction over, and the propriety of removal of, this matter;
- b. The opportunity to present evidence demonstrating the existence of federal jurisdiction and the propriety of removal; and
- c. Leave to conduct limited discovery related to those issues.

JURY DEMAND

21. Defendants demand a jury trial.

WHEREFORE, PREMISES CONSIDERED, Defendant Harvey Trucking Services, Inc. removes the above captioned action from the 285th District Court of Bexar County, Texas to the United States District Court for the Western District of Texas, San Antonio Division.

Respectfully submitted,

THE FUENTES FIRM, P.C.

/s/ *Juan Roberto Fuentes*

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**ATTORNEYS FOR DEFENDANT
HARVEY TRUCKING SERVICES, INC.**

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per W. Dist. Tex. Loc. R. LR5.1. A true and correct copy of the foregoing Defendant's Notice of Removal was served upon counsel of record in compliance with the Federal Rules of Civil Procedure by certified mail, return receipt requested, telephonic communications, hand delivery and/or U.S. Mail on this 12th day of April 2021.

/s/ *Juan Roberto Fuentes*

JUAN ROBERTO FUENTES